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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
13 Against:

14 **JAMES BUENAFLO**
15 **34746 Osage River Place**
16 **Fremont, CA 94555**

17 **Applicant.**

Case No. *2011-607*

STATEMENT OF ISSUES

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
21 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about August 16, 2010, the Board of Registered Nursing, Department of
24 Consumer Affairs, received an application for a Registered Nurse License from James Buenaflor
25 (Applicant). On or about August 13, 2010, James Buenaflor certified under penalty of perjury to
the truthfulness of all statements, answers, and representations in the application. The Board
denied the application on October 25, 2010.

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JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

..."

5. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that code.

6. Section 480 of the Code states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

1 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
2 would be grounds for suspension or revocation of license.

3 "(B) The board may deny a license pursuant to this subdivision only if the crime or act is
4 substantially related to the qualifications, functions, or duties of the business or profession for
5 which application is made.

6 "(b) Notwithstanding any other provision of this code, no person shall be denied a license
7 solely on the basis that he or she has been convicted of a felony if he or she has obtained a
8 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
9 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has
10 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
11 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
12 Section 482.

13 "(c) A board may deny a license regulated by this code on the ground that the applicant
14 knowingly made a false statement of fact required to be revealed in the application for the
15 license."

16 7. California Code of Regulations, title 16, section 1444, states:

17 "A conviction or act shall be considered to be substantially related to the qualifications,
18 functions or duties of a registered nurse if to a substantial degree it evidences the present or
19 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
20 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

21 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
22 subdivision (d) of Penal Code Section 11160.

23 "(b) Failure to comply with any mandatory reporting requirements.

24 "(c) Theft, dishonesty, fraud, or deceit.

25 "(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
26 Penal Code."

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1 CAUSE FOR DENIAL OF APPLICATION

2 (CRIMINAL CONVICTION)

3 8. Applicant's application is subject to denial under sections 480(a)(1), 480(a)(3),
4 2761(a), 2761(f) and 2736 in that on or about October 29, 1996, in a criminal proceeding entitled
5 *The People of the State of California v. James Regadio Buenaflor* in Kings County Superior
6 Court, Case Number 96CM 5552, Applicant was convicted of violating Penal Code section
7 261.5(a) a felony. He was sentenced as follows: 240 days jail time, 5 years probation, and fines
8 and fees in the amount of \$1,280.00.

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10 PRAYER

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Registered Nursing issue a decision:

- 13 1. Denying the application of James Buenaflor for a Registered Nursing License; and
14 2. Taking such other and further action as deemed necessary and proper.

15 DATED: 1-11-2011

16 Louise R. Bailey
17 LOUISE R. BAILEY, M.ED., RN
18 Executive Officer
19 Board of Registered Nursing
20 Department of Consumer Affairs
21 State of California
22 Complainant

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